In the Claims

Claims 1-12 (cancelled)

~~12~~ 13. (currently amended) An isolated nucleic acid fragment having constitutive promoter activity selected from the group consisting of :

a) an isolated nucleic acid fragment comprising the nucleic acid sequence of SEQ ID NO:6 or SEQ ID NO:14 ~~or a subfragment thereof having constitutive promoter activity~~; and

b) an isolated nucleic acid fragment which can hybridize with any of the nucleotide sequences set forth in SEQ ID NO:6 or SEQ ID NO:14 under stringent conditions wherein said stringent conditions comprise washing in 0.1xSSC/0.1% SDS at 65°C. ~~CARL AND ZHONSEN: IS THIS OK? CONDITIONS IN EXAMPLE 3 WERE STRINGENT.~~

~~13~~ 14. (currently amended) A chimeric gene comprising at least one heterologous nucleic acid fragment operably linked to the isolated nucleic acid fragment of claim ~~1~~ 13.

~~14~~ 15. (currently amended) An expression construct comprising the chimeric gene of claim ~~13~~ 14.

~~15~~ 16. (currently amended) A plant comprising the chimeric gene of claim ~~13~~ 14.

~~16~~ 17. (currently amended) The plant of claim ~~15~~ 16 wherein said plant is a monocot selected from the group consisting of corn, rice, wheat, barley and palm.

~~17~~ 18. (currently amended) The plant of Claim 16 wherein said plant is a dicot selected from the group consisting of *Arabidopsis*, soybean, oilseed *Brassica*, peanut, sunflower, safflower, cotton, tobacco, tomato, potato, and cocoa.

~~18~~ 19. (currently amended) The plant of claim ~~17~~ 18 wherein said plant is soybean.

~~19~~ 20. (currently amended) Seed of the plant as in any one of Claims ~~15, 16, 17 or 18~~ 16, 17, 18, or 19 wherein said seed comprises in its genome the chimeric gene of claim ~~13~~ 14.

~~20~~ 21. (currently amended) A method of ~~increasing or decreasing the expression of~~ expressing at least one heterologous nucleic acid fragment in a plant cell which comprises:

(a) transforming a plant cell with the chimeric gene of Claim ~~13~~ 14;

(b) growing at least one fertile mature plant from the transformed plant cell of step (a);

(c) selecting at least one plant containing a transformed plant cell ~~wherein the expression of the heterologous nucleic acid fragment is increased or decreased~~ which expresses the heterologous nucleic acid fragment.

~~21~~ 22. (currently amended) The method of Claim ~~20~~ 21 wherein the plant is a monocot selected from the group consisting of corn, rice, wheat, barley and palm.

~~22~~ 23. (currently amended) The method of Claim 21 wherein the plant is a dicot selected from the group consisting *of Arabidopsis*, soybean, oilseed *Brassica*, peanut, sunflower, safflower, cotton, tobacco, tomato, potato, and cocoa.

~~23~~ 24. (currently amended) The method of Claim ~~22~~ 23 wherein the plant is soybean.

25. (new) A method of decreasing the expression of an endogenous gene in a plant cell which comprises:

(a) transforming a plant cell with the chimeric gene of Claim 14;

(b) growing at least one fertile mature plant from the transformed plant cell of step (a);

(c) selecting at least one plant containing a transformed plant cell wherein the expression of the endogenous gene is decreased.

26. (new) The method of Claim 25 wherein the plant is a monocot selected from the group consisting of corn, rice, wheat, barley and palm.

27. (new) The method of Claim 25 wherein the plant is a dicot selected from the group consisting *of Arabidopsis*, soybean, oilseed *Brassica*, peanut, sunflower, safflower, cotton, tobacco, tomato, potato, and cocoa.

28. (new) The method of Claim 27 wherein the plant is soybean.